IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARK STATSMAN, Plaintiff, v. CAPITAL ONE BANK (USA), N.A. and FIRSTSOURCE ADVANTAGE, LLC, Defendants.	Civil Action No. 3:16-cv-2420 [formerly in the Court of Common Pleas of Lackawanna County, Pennsylvania – Case No. 16-cv-6433] FILED SCRANTON DEC 07 2016 PER ________ DEPUTY CLERK

NOTICE OF REMOVAL

Defendant Capital One Bank (USA), N.A. ("Capital One"), by its undersigned attorneys, hereby files a Notice of Removal pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, and states as follows:

1. On or November 14, 2016, Plaintiff Mark Statsman filed a complaint in the Court of Common Pleas of Lackawanna County, Pennsylvania, titled *Mark Statsman v. Capital One Bank (USA), N.A. and Firstsource Advantage, LLC*, Case No. 16-cv-6433. A true and correct copy of the Complaint, along with copies of all process, pleadings, and orders received by Capital One in the State Court Action, is attached hereto as Exhibit A.

2. In his Complaint, Plaintiff alleges that Defendants violated the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* ("TCPA").

3. Capital One was served with the complaint via certified mail on November 17, 2016.

4. Pursuant to 28 U.S.C. § 1446(b), "[t]he notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . . ." 28 U.S.C. § 1446(b).

5. This Notice of Removal is filed with this Court within thirty (30) days of service of the Complaint.

6. 28 U.S.C. § 1331 provides that "district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

7. In his Complaint, Plaintiff alleges that Defendant violated the TCPA, which is a federal law.

8. The TCPA was created by, and arises under, federal law. Accordingly, this District Court has jurisdiction over Plaintiff's TCPA claim. *See Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740, 747 (2012).

9. Removal of this case is proper under 28 U.S.C. § 1441(a), which provides, in pertinent part, that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed

by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

10. Venue lies in this Court because Plaintiff's action is pending in Lackawanna County, which is within the Middle District of Pennsylvania.

11. This case is not precluded from being removed under 28 U.S.C. § 1445 because: (a) it is not brought against a railroad or its receivers or trustees, arising under 45 U.S.C. § 51–54, 55–60; (b) it is not brought against a carrier or its receivers or trustees to recover damages for delay, loss or injury of shipments arising under section 11706 or 14706 of title 49; (c) it does not arise under the workmen's compensation laws; and (d) it does not arise under Section 40302 of the Violence Against Women Act of 1994.

12. Counsel for Capital One has contacted the General Counsel for FirstSource Advantage, LLC ("FirstSource") and obtained FirstSource's consent to remove this action to federal court. A copy of the correspondence confirming FirstSource's consent to removal is attached hereto as Exhibit B.

13. Contemporaneous with the removal of this action, Capital One has given written notice of this Notice of Removal to the Prothonotary of the Court of Common Pleas of Lackawanna County and Plaintiff's counsel pursuant to 28

U.S.C. § 1446(d). A copy of the Notice of the Notice of Removal, without exhibits, is attached hereto as Exhibit C.

WHEREFORE, Defendant Capital One respectfully notices the removal of this action from the Court of Common Pleas of Lackawanna County, Pennsylvania.

Dated: December 7, 2016

Respectfully submitted,

/s/ Laura A. Lange

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Attorneys for Defendant Capital One Bank (USA), N.A.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served upon the following counsel of record via U.S. First Class mail, postage prepaid, this 7th day of December, 2016:

Brett Freeman
Sabatini Law Firm, LLC
216 N. Blakely Street
Dunmore, PA 18512
Attorney for Plaintiff

FirstSource Advantage, LLC
c/o James L. Duke, General Counsel
205 Bryant Woods South
Amherst, NY 14228

/s/ Laura A. Lange